



UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HERVE GUERRIER,
#1036378

Plaintiff,

vs.

ROBERT LEGRAND, *et al.*,

Defendants.

3:10-cv-00719-LRH-VPC

ORDER

Plaintiff has submitted a *pro se* civil rights complaint. Plaintiff's application to proceed *in forma pauperis* is granted (docket #5). Based on the information regarding plaintiff's financial status in the application to proceed *in forma pauperis*, plaintiff is required to pay an initial installment of the filing fee pursuant to 28 U.S.C. §1915.

The grant of *in forma pauperis* status adjusts the amount of the filing fee that plaintiff must *prepay* -- plaintiff will be required to prepay an initial installment of \$23.39, if plaintiff's institutional account has a sufficient balance, instead of having to prepay the full \$350 filing fee for this action. The entire \$350 filing fee will, however, remain due from plaintiff, and the institution where plaintiff is incarcerated will collect money toward the payment of the full filing fee when plaintiff's

1 institutional account has a sufficient balance, pursuant to 28 U.S.C. §1915. Further, the entire \$350
2 filing fee will remain due and payable, and will be collected from plaintiff's institutional account,
3 regardless of the outcome of this action.

4 On January 14, 2011 plaintiff filed a motion to amend his complaint (docket #3).
5 Plaintiff's motion is granted. Plaintiff shall file his amended complaint within thirty (30) days of the
6 date of entry of this order. Plaintiff is informed that the court cannot refer to a prior pleading in order
7 to make plaintiff's amended complaint complete. Local Rule 15-1 requires that an amended complaint
8 be complete in itself without reference to any prior pleading. This is because, as a general rule, an
9 amended complaint supersedes the original complaint. *See Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir.
10 1967). Once plaintiff files an amended complaint, the original pleading no longer serves any function
11 in the case. Therefore, in an amended complaint, as in an original complaint, each claim and the
12 involvement of each defendant must be sufficiently alleged.

13 **IT IS THEREFORE ORDERED** that plaintiff's application to proceed *in forma*
14 *pauperis* (docket #5) is **GRANTED**. Plaintiff Herve Guerrier, **Inmate No. 1036378**, will be permitted
15 to maintain this action to conclusion without prepayment of the full filing fee. However, plaintiff must
16 pay an initial installment of the filing fee in the amount of **\$23.39**. Plaintiff will not be required to pay
17 fees or costs, other than the filing fee, or give security therefor. This Order granting *in forma pauperis*
18 status shall not extend to the issuance and service of subpoenas at government expense.

19 **IT IS FURTHER ORDERED** that, even if this action is dismissed, or is otherwise
20 unsuccessful, the full filing fee shall still be due, pursuant to 28 U.S.C. §1915, as amended by the
21 Prisoner Litigation Reform Act of 1996.

22 **IT IS FURTHER ORDERED** that if plaintiff's account has sufficient funds, he shall
23 have **thirty (30) days** from the date of entry of this order to have the initial installment of the filing fee,
24 in the amount stated above, sent to the Clerk in the manner described below. Failure to do so may result
25 in the immediate dismissal of this action.

26 **IT IS FURTHER ORDERED** that the Clerk shall **SEND** plaintiff two copies of this

1 Order. Plaintiff must make the necessary arrangements to have one copy of this Order, attached to a
 2 check in the amount of the initial installment of the filing fee, sent to the Court, by sending a copy of the
 3 Order with a "brass slip" to Inmate Services for issuance of the check.

4 **IT IS FURTHER ORDERED** that, pursuant to 28 U.S.C. §1915, as amended by the
 5 Prisoner Litigation Reform Act of 1996, the Nevada Department of Corrections shall pay the Clerk of
 6 the United States District Court, District of Nevada, 20% of the preceding month's deposits to plaintiff's
 7 account (in months that the account exceeds \$10.00), until the full \$350 filing fee has been paid for this
 8 action. **The Clerk shall send a copy of this order to Albert G. Peralta, Chief of Inmate Services,**
 9 **Nevada Department of Prisons, P.O. Box 7011, Carson City, NV 89702.**

10 **IT IS FURTHER ORDERED** that plaintiff's motion to amend complaint (docket #3)
 11 is **GRANTED**.

12 **IT IS FURTHER ORDERED** that the Clerk **SHALL SEND** to plaintiff the approved
 13 forms for filing a civil rights lawsuit under 42 U.S.C. §1983.

14 **IT IS FURTHER ORDERED** that if plaintiff shall clearly title any amended complaint
 15 as such by placing the words "FIRST AMENDED" immediately above "Civil Rights Complaint
 16 Pursuant to 42 U.S.C. § 1983" on page 1 in the caption, and plaintiff shall place the case number, 3:10-
 17 **CV-00719-LRH-VPC**, above the words "FIRST AMENDED" in the space for "Case No."

18 **IT IS FURTHER ORDERED** that if plaintiff chooses to file an amended complaint,
 19 he shall file it within **thirty (30) days** from the date that this Order is entered. The amended complaint
 20 must be a complete document in and of itself, and will supersede the original complaint in its entirety.
 21 Any allegations, parties, or requests for relief from prior papers that are not carried forward in the
 22 amended complaint will no longer be before the court.

23
 24 DATED this 7th day of February, 2011.

25 Valerie P. Fisher
 26 UNITED STATES MAGISTRATE JUDGE